

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION

*Plaintiff-Appellee,*

vs.

McGINN, SMITH & CO., INC.,  
McGINN, SMITH ADVISORS, LLC,  
McGINN, SMITH CAPITAL HOLDINGS CORP.,  
FIRST ADVISORY INCOME NOTES, LLC,  
FIRST EXCELSIOR INCOME NOTES, LLC  
FIRST INDEPENDENT INCOME NOTES, LLC,  
THIRD ALBANY INCOME NOTES, LLC,  
TIMOTHY M. MCGINN, AND  
DAVID L. SMITH,

**Case No.: 1:10-CV-457  
(GLS/DRH)**

**NOTICE OF APPEAL**

*Defendants, and*

LYNN A. SMITH,

*Relief Defendant-Appellant.*

DAVID M. WOJESKI, Trustee of the David L. and  
Lynn A. Smith Irrevocable Trust U/A 8/04/04,

*Intervenor.*

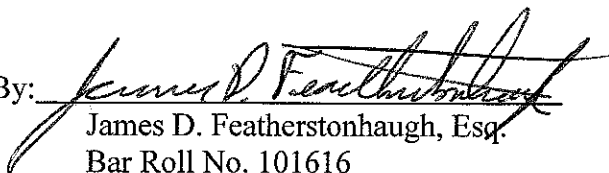
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Notice is given that Appellant-Relief Defendant Lynn A. Smith hereby appeals to the United States Court of Appeals for the Second Circuit from each and every part of the Order of the District Court, Northern District of New York (Magistrate Judge Homer, D.) entered in this action on the 7<sup>th</sup> day of July, 2010, which granted Plaintiff-Appellee's Motion for a Preliminary Injunction Continuing the Asset Freeze as to Relief Defendant

Lynn A. Smith's stock account, Vero Beach home and checking account.

DATED: September 1, 2010

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